DOCUMENT RESUME

ED 263 728 EC 180 999

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|---|---|
| TITLE | Implementation of Minnesota's Surrogate Parent Rules: An Administrator's Manual. |
| INSTITUTION | Minnesota Curriculum Services Center, White Bear Lake.; PACER Center, Inc., Minneapolis, MN. |
| SPONS AGENCY | Minnesota State Dept. of Education, St. Paul. |
| PUB DATE | [84] |
| NOTE | 45p.; Credit to the Indiana Surrogate Parent Program and Department of Public Instruction for partial adaption of their surrogate materials for use in Section Three and the Appendix. For the surrogate parents' manual, see EC 181 000. |
| AVAILABLE FROM | Minnesota Curriculum Services Center, 3554 White Bear Ave., White Bear Lake, MN 55110 ($5.00 post paid, Catalog No. B622). |
| PUB TYPE | Guides - Non-Classroom Use (055) |
| EDRS PRICE | MF01 Plus Postage. PC Not Available from EDRS. |
| DESCRIPTORS | *Administration; *Disabilities; Elementary Secondary Education; Program Development; *State Standards |
| IDENTIFIERS | *Minnesota; *Surrogate Parents |

ABSTRACT

The administrator's manual is designed to help Minnesota's school districts to implement their new surrogate parent programs. The first section explains what must occur according to federal and state rules and regulations on the topic. Three steps are identified: (1) identifying students who need surrogate parents; (2) recruiting and naming surrogate parents; and (3) understanding the duties of, and training for, surrogate parents. The second section contains answers to commonly asked questions regarding legal liability, eligibility, terms, and special considerations. The final section provides specific guidelines for school districts to use in developing surrogate parent programs (based on the three steps addressed in section 1). (CL)

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# Introduction

In granting the parents of handicapped children a significant role in their children's special education programs, Congress foresaw the need for students without their own parents to have a personal representative - outside of school personnel - available to advocate on their behalf.

In the regulations written to implement Public Law 94-142, the Education for All Handicapped Children Act, section 300a.514 called for educational agencies to establish a surrogate parent program to ensure that handicapped students - otherwise unrepresented by family - will have someone on hand to articulate their individual needs.

The Minnesota State Board of Education, in the fall of 1983, adopted new rules for special education programs which clarified the role that school districts must fulfill in terms of providing surrogate parents for certain handicapped students. Each district must: (1) systematically identify students in need of a surrogate, (2) recruit persons capable of serving in that capacity, (3) provide the required training for those persons, and (4) take charge of selecting the individual surrogate to represent the individual child.

This administrators' manual has been prepared to assist the state's school districts in implementing their new surrogate programs.

The first section of the manual explains what *must* take place according to both federal and state regulations and rules dealing with surrogate parents.

The second section contains a series of questions that may arise as districts develop their new surrogate programs. The answers provided give guidelines as to how districts might address these issues.

The manual's third section provides specific guidelines for school districts to use in the development of major aspects of surrogate parent programs. Though not specified in either federal or state rules and regulations, the methods have been found to work in other localities. To avoid "reinventing the wheel", Minnesota districts may wish to adapt these procedures for use in their systems.

# Section One
## A Discussion of Regulatory Requirements

As noted earlier, this section covers specific federal and state requirements concerning surrogate parent programs. Verbatim copies of the rules and regulations are provided in the manual's appendix.

## *WHOSE RESPONSIBILITY IS THE ESTABLISHMENT OF A SURROGATE PARENT PROGRAM?*

Federal regulations specify only that a "public agency" shall insure the rights of a handicapped student through appointment of a surrogate parent. "Public agency" means the state or local or intermediate educational agency with responsibility for providing special education instruction and services.

In Minnesota, the state Department of Education's roles are to monitor local districts to be sure that they are in compliance with requirements and provide guidance to the districts as they implement the rules. It is the local "providing district" that must actually appoint surrogates on behalf of pupils.

To illustrate: A student's residence is in district "A", but s/he is presently placed in a residential treatment center in district "B". Because district "B" is responsible for providing the educational services, it is also responsible for appointing a surrogate for the student if the need exists. Similarly, the needs of a youth in a state hospital for a surrogate would be the responsibility of the school district in which the state hospital is located.

In Minnesota, the only instances where a public school district would *not* have responsibility for the appointment of a surrogate parent is for those young people placed in the Minnesota School for the Deaf, the Minnesota Braille and Sight Saving School, the Minnesota Learning Center at the state hospital in Brainerd, and the correctional facilities at Red Wing, Sauk Center, Shakopee, and St. Cloud. The state is considered to operate educational programs at those facilities.

Accordingly, the State Board of Education would be the "providing district" and in charge of surrogate appointments for pupils at the Minnesota School for the Deaf and the Minnesota Braille and Sight Saving School. The Commissioner of Corrections is the "providing district" and in charge of surrogate appointments for students in the state's juvenile correctional facilities named above. Finally, the Department of Public Welfare would be the "providing district" and in charge of surrogate appointments for pupils in the Minnesota Learning Center at the state hospital in Brainerd.

## Minnesota's Compliance Procedures

The following pages compose the section of the state's *Compliance Manual* that deals with the information each local district must provide to the state to demonstrate that its surrogate parent procedures are in compliance wtih regulatory requirements.

Criteria number

72 The providing district shall appoint a surrogate parent to ensure, by intervening on behalf of a pupil, that the rights of the pupil to a free and appropriate public education are protected when:

a. The parent, guardian, or conservator is unknown or unavailable; or

b. Parental rights have been terminated; or

c. The pupil has reached the age of majority, continues to be eligible for special education, and is not represented by a parent (this item is in the process of being amended); or

d. The pupil is the ward of the Commissioner of Public Welfare; or

e. The parent requests in writing the appointment of a surrogate parent; the request may be revoked in writing at any time.

300.514(a),(b),(e) M.S. 120.17 Subd. 3a(e)
5MCAR 1.01233 A.,C.,D

METHODS:
.10 Procedures Regarding Appointment of Surrogate Parents
.10 List of All Students to Date Needing Surrogate Parents and Name/Title of Person Identified
.20 Student Record Review
.40 Staff Interview

73 The district shall make reasonable efforts to locate the pupil's parent prior to the appointment of a surrogate. These may be made through documented phone calls, letters, certified letters with return receipts, and visits to the parent's last known address.

300.514(a)(2) 5MCAR 1.01223 B

METHODS:
.10 Review of Letters or Return Receipts for Certified Letters Mailed to Parents, or Any "Log" Used to Record Phone Calls and Visits to Parent's Last Known Address
.40 Staff Interview

74 The person appointed as the surrogate parent shall not receive public funds to care for the child. However, a foster parent may serve as a surrogate parent if appointed and if no conflict of interest exists. The district shall consult the county welfare office before appointing the surrogate parent when a pupil is the ward of the Commissioner of Public Welfare.

Criteria number

74 cont. 300.514(c)(2)(i),(d) 5MCAR 1.01233 A.,D

METHODS: .10 List of All Students to Date Needing Surrogate Parents and Name/Title of Person Identified
.40 Staff Interview
.50 Surrogate Parent Interview

75 The district shall either make the information and training available to the surrogate parent or appoint a surrogate parent who has all of the following knowledge and skills:

a. State and Federal requirements relating to the education of handicapped children;

b. District structure and procedures relating to the education of handicapped children;

c. Nature of the pupil's disability and needs; and

d. An ability to effectively advocate an appropriate educational program for the pupil.

300.514(c)(2)(ii) 5MCAR 1.01233 F

METHODS: .10 Review of Training Information and Procedures Available to Surrogate Parents (TSES)
.40 Staff Interview
.50 Surrogate Parent Interview

76 The district may remove the surrogate parent by majority vote of the school board. The surrogate parent must be notified (in writing) of the time and place of the meeting at which a vote is to be taken and of the reasons for the proposed removal. The surrogate parent shall be given the opportunity to be heard. Removal may be for any of the following reasons:

a. Failure to perform the duties required in the team meeting and IEP process and those cited in Part B of the Education of the Handicapped Act;

b. Conflict of interest as referenced in 300.514(c)(2) (refer to Criteria 74);

c. Actions that threaten the well-being of the assigned pupil;

Criteria number

76 cont. d. Failure to appear to represent the pupil; or

e. Change in eligibility for special education.

300.514(c)(2)(i) SMCAR 1.01233 E

METHODS:
- .10 List of Surrogate Parents Who Have Been Dismissed
- .10 Review of Notice Regarding Proposed Removal of Surrogate Parent
- .10 Review of School Board Minutes Regarding Hearing Related to Removal of Surrogate Parent
- .50 Surrogate Parent Interview

# *WHAT'S REQUIRED OF THE AGENCY RESPONSIBLE FOR THE SURROGATE PROGRAM?*

Federal and state rules and regulations specify that the "public agency" (which, according to state statutes, is the providing district) must have procedures in place that account for three specific outcomes. They are:

1. A procedure to determine which handicapped children within the district need surrogate parents,
2. A procedure to recruit and assign surrogate parents, and
3. A procedure to train surrogate parents in the knowledge and skills requested to fulfill their roles.

## Step One: Identifying Students Who Need Surrogate Parents

The general body of students to whom the question of surrogate parents applies is composed of handicapped students eligible for a "free, appropriate public education." Under Minnesota law, this would include all students aged 4-21 who are either already receiving special education services or who are thought to be in need of such services. This would also include all handicapped children from birth to age three who are receiving special education services.

The federal regulations begin by stating that those handicapped students for whom "no parents can be identified" must have a surrogate assigned. Earlier in the regulations, a "parent" was defined to mean "a parent, a guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance" with the specific section of the regulations dealing with surrogates.

In addition to those students for whom no parent can be identified, other students in need of a surrogate are those for whom "the public agency, after reasonable efforts, cannot discover the whereabouts of a parent;" or the child who "is a ward of the State under the laws of that State."

State Board of Education rules concerning which children need surrogate parents expand somewhat upon the federal regulations. Minnesota rules state that a surrogate parent shall be appointed under the following conditions:

1. the parent, guardian, or conservator is unknown or unavailable;
2. when the parent requests in writing the appointment of a surrogate parent; (this request may be revoked in writing at any time)
3. when parental rights have been terminated; or
4. when the student is a ward of the Commissioner of Public Welfare, hereafter referred to as a "ward of the State".

*Condition 1:* In order to establish that a child's parents are actually "unknown," State Board of Education rules instruct school districts to first make "reasonable efforts to locate the parent. These may be made through documented phone calls, letters, certified letters with return receipts, and visits to the parent's last known address."

Regulations do not specifically define an "unavailable parent," another condition that would make a child eligible for appointment of a surrogate. The second section of the manual will include a discussion of the criteria that might be used to determine unavailability.

*Condition 2:* At any time, parents may decide they don't have the time, energy, interest, or skill to deal with the school on the details of education programming for their handicapped child. They may request - in writing - that a surrogate parent be appointed to serve in their place. They may later revoke - also in writing - their request for a surrogate appointment.

*Condition 3:* When the probate court has terminated parent rights, a surrogate parent must be named.

*Condition 4:* Under Minnesota law, a child may be a ward of the State *even though* the rights of the natural parents have *not* been terminated. Should this situation occur, the child would still need to have a surrogate appointed. If, however, the child's natural parents are available and willing to participate in this role, they may be named. Because they will be serving as surrogate parents, they must be officially appointed as such. They must also meet the "knowledge and skills" requirement of the law and thus may need to participate in a program of training.

## Step Two: Recruiting and Naming Surrogate Parents

Federal regulations specify that each public agency may select surrogate parents in any way permitted by state law subject to three specific conditions:

1. The surrogate can have no interest that conflicts with those of the child being represented.

2. The surrogate must possess knowledge and skills that insure the child is adequately represented.

3. The surrogate may not be an employee of a public agency involved in the education or care of the child.

A person who may be serving a child as a surrogate is exempted by the regulations from being considered an employee of the public agency simply because he or she is a surrogate parent.

State Board of Education rules specify that the surrogate shall not be someone who receives funds to care for the child. However, they do allow foster parents to be appointed and serve as surrogate parents for the child(ren) in their care if no conflict of interest exists.

## Compensation

Although the question of compensation for a surrogate has not been officially addressed by federal regulations, a letter to the Minnesota Department of Education from the United States Department of Education stated that the federal office for Special Education Programs interprets the issue to mean that regulations do not forbid compensation to surrogates for "services rendered" so long as there is "no possible conflict of interest problem."

## Minnesota Procedures

State Board of Education rules require that a school consult with its county's welfare office before appointing a surrogate when the child in question is a ward of the State. The consultation will enable the school district to gain the documentation needed for its records to establish that the student is, indeed, a ward of the State and in need of a surrogate appointment. Also, State Board of Education rules require that school districts inform parents of handicapped children about free or low cost legal services available in the area in conjunction with all formal notices sent to them. Because federal regulations include surrogate parents in their definition of "parents", surrogates should also be informed of the free or low cost legal services.

State Board of Education rules do not specify who, within each district, must name the surrogate; that action is subject to local policy. The same rules do specify, however, that only the local board of education can remove a surrogate parent.

If the removal of a surrogate parent is being contemplated, the person in question must be notified of the time and place of the meeting at which a vote will be taken. The surrogate must also be informed of the reasons for the proposed removal. Further, the surrogate must be given the opportunity to speak on his/her own behalf.

A removal may be made for any of the following reasons:

1. failure of the surrogate to represent the pupil in any of the parental functions described by federal and state rules and regulations (e.g., failure to attend team meetings);

2. a conflict of interest;
3. a change in the pupil's eligibility for special education services; or
4. actions by the surrogate that threaten the pupil's well being.

While the participation of natural parents in team meetings and the IEP process is permissive, a lack of such participation by surrogate parents can constitute cause for their termination.

## Step Three: The Duties of, and Training for, Surrogate Parents

Surrogate parents, according to federal regulations, are to represent the child in all matters relating to his or her identification, evaluation, and educational placement and to "the provision of a free appropriate public education to the child." In other words, surrogate parents are authorized to carry out all responsibilities granted to natural parents under Public Law 94-142. The surrogate parent regulations grant them no authority other than to assist in decisions about education services.

As noted earlier, federal regulations require that a surrogate parent have the knowledge and skills necessary to represent a child adequately. State Board of Education rules place responsibility on the providing distict to make sure that surrogates possess the required:

1. knowledge of federal and state rules and regulations;
2. knowledge of district structure and procedures;
3. knowledge of the nature of the pupil's disability and needs; and
4. ability to effectively advocate an appropriate educational program for the pupil.

# Section Two
## Commonly Asked Questions

This part of the manual deals with questions related to surrogate programs which are not explicitly addressed or answered by federal or state rules and regulations. The answers to these questions are administrative interpretations that offer direction to school districts.

### *WHAT HAPPENS TO THE SURROGATE APPOINTMENT WHEN THE "PROVIDING DISTRICT" ISN'T THE SAME AS THE STUDENT'S RESIDENT DISTRICT?*

As noted in Section One, the district actually providing educational services to a student is responsible for appointment of a surrogate if that student needs one. In such cases, it's suggested that the providing district consult with the student's district of residence. If a surrogate parent had already been appointed for the student and the geographical distance is not too great, it may be logical for the previous surrogate to be appointed by the new providing district to continue to serve the student.

### *ARE THERE ANY SPECIAL CONSIDERATIONS FOR STUDENTS AGED 18-21 WHO MIGHT NEED SURROGATES?*

Under State Board of Education rules, a pupil aged 18-21 is considered to act as his/her own parent unless he or she has had a guardian or conservator appointed. Under those conditions (i.e. where the student is serving as his/her own parent or where a guardian or conservator has been appointed), there would be no need for a surrogate to be appointed. *Only* when the student aged 18-21 is a ward of the State would s/he be eligible for the school to make a surrogate appointment. (Very possibly the student in

question may already have had a surrogate parent in place from before the time s/he turned 18.) However, Minnesota rules do allow a surrogate appointment to be made if a "parent" requests such an appointment in writing. Therefore, if the 18-21 year old student, serving as his/her own parent, requests that a surrogate parent be named, the surrogate can be appointed.

As a handicapped student who's been served by a surrogate parent approaches 18, the district will want to consider the nature of the surrogate appointment. If the student is *not* a ward of the State but had received services from a surrogate because his/her natural parents were unavailable or unknown, then the reasons for the appointment may cease when s/he turns 18 and is eligible to act as his/her own parent. Unless the student then requests the appointment of a surrogate parent, one would not be required.

School districts may want to consider involving social services or the courts for a student who is approaching the age of 18 and has a handicap which may interfere with his/her ability to make adult judgements.

## *HOW MANY STUDENTS CAN BE SERVED BY ONE SURROGATE PARENT?*

There are no formal limits on the number of students who may be served by each surrogate parent. However, experience in other states, according to a report prepared by the National Association of State Directors of Special Education (NASDSE), suggests that an ideal caseload for each surrogate would be up to three students. In appointing multiple children to a surrogate parent, school districts should consider whether or not the surrogate's total "load" will allow him or her the time to perform the required duties.

In appointing a surrogate parent, districts may also want to consider whether his or her cultural background will provide the kind of understanding of the child needed to advocate for his/her individual needs. Another consideration would be whether or not the prospective surrogate has an adequate understanding of the child's particular handicapping conditio.ı.

## *WHAT DOES A DISTRICT DO WHEN A STUDENT HAS SOMEONE "ACTING" IN THE PARENTAL ROLE?*

According to federal regulations, if a person such as an aunt or grandparent is "acting as a parent of a child", appointment of a surrogate parent would be unnecessary. However, since no formal court action has been completed, it is suggested that, to formalize the "acting parent's" participation in the child's educational program, school districts may wish to seek the "acting parent's" consent to be officially named as a surrogate and to receive the training needed to advocate effectively for him or her.

It should be noted that if a child's natural parents are not available but a court-appointed guardian or conservator has been named by court action, the child would not need a surrogate parent. Only when the guardian or conservator is a state official - as when the child is a ward of the State - must a surrogate be named.

## *WHAT IS MEANT BY A PARENT WHO IS 'UNAVAILABLE'?*

It's advised that when parents are "unavailable" - in the sense that their identification and location are known but they are unwilling to participate in their child's special educational procedures - their consent be sought by the district for the appointment of a surrogate to serve in their place.

However, in cases where a child's natural parents have not provided their consent, comments published in the *Federal Register* in conjunction with federal regulations suggest that school districts must follow due process procedures in order to allow evaluation or services to be provided. School districts are advised not to skirt the due process procedure by appointing a surrogate parent to obtain consent since this would tamper with the area of parental rights.

## *CAN YOU DESCRIBE SOME OF THE PERSONS WHO ARE NOT ELIGIBLE TO SERVE AS SURROGATE PARENTS?*

The categories excluded by federal and state rules and regulations are those persons who receive public funds to care for the child, who have any interest that may conflict with the interests of the child represented, or who are employed by a public agency involved in the education or care of a child.

This would exclude a director of a group home or a county social worker, for instance, from serving as a surrogate parent. Also excluded would be employees of a private facility since they could be judged to have a potential conflict of interest.

State Board of Education rules do allow foster parents to be appointed and serve as surrogate parents for the child(ren) in their care if no conflict of interest exists.

It should be kept in mind that many types of people - including a group home director - *could* be appointed as a child's guardian or conservator. If a court had approved such a guardianship arrangement, then the child would have a "parent" and there would be no need for a surrogate parent to be appointed.

Again, however, if the child's guardian is a state official as when the child is a ward of the State, a surrogate parent must be appointed according to state and federal rules and regulations.

## *WHO WITHIN THE SCHOOL DISTRICT IS ACTUALLY RESPONSIBLE FOR NAMING SURROGATE PARENTS?*

This is not addressed by State Board of Education rules. However, during the public hearing on the new regulations, concern was expressed as to whether school boards, which have formal responsibility for the removal of surrogates, should also serve as the body responsible for their appointment.

The State Board of Education, in its response to the hearing examiner's report, stated its rejection of the "suggestion that the school board should be specifically designated to appoint the surrogate parent." It was reasoned that since the need for team meetings and IEP development is an ongoing process, a requirement that the school board be the sole body in charge of appointments could unnecessarily delay services to a handicapped pupil since the school board may meet only once a month.

In summary, the rules themselves leave each district with the option of deciding which individual(s) within the system will be responsible for surrogate parent appointments.

## *COULD SURROGATE PARENTS INCUR ANY LEGAL LIABILITY?*

This question was raised by several parties during the period when regulations for Public Law 94-142 were being adopted. Many wanted the regulations to somehow provide protection to surrogate parents against any legal liability.

In responding to the issue in the *Federal Register*, the then-Department of Health, Education and Welfare stated, "The legal liability of surrogates will be determined under State law relating to such matters as breach of fiduciary duty, negligence, and conflict of interest. The Federal government has no authority to limit legal liability."

There appears to be nothing specific in state law that addresses the potential liability of either natural or surrogate parents.

# Section Three
## Guidelines To Assist Districts in the Development of Their Surrogate Parent Programs

Section One of this manual provided citations of federal and state laws, rules, and regulations specific to surrogate parents. Those citations specified three activities or steps involved in a total program: identification of students who need surrogate parents, recruitment and assignment of surrogate parents, and the training of surrogate parents. This section of the manual provides guidelines for use by districts in the design and implementation of each of these steps.

To avoid confusion between requirements and guidelines, each summary of the requirements is underlined.

## *STEP ONE: A PROCEDURE FOR IDENTIFICATION OF HANDICAPPED CHILDREN IN NEED OF A SURROGATE PARENT*

It is the responsibility of the local school district to determine which children are eligible for the appointment of a surrogate parent. Initially, this could involve a survey of enrollment records of children who are currently receiving special education services to determine who has participated in the parents' role in the past in educational decision making. The district would want to be on the alert and make further inquiries when the records of a handicapped student reveal a lack of parental input and attendance.

The district may wish to conduct an orientation meeting with representatives from county and state welfare and/or correction departments in order to discuss the surrogate

parent regulations and to solicit help from those agencies in determining which children may need surrogates appointed.

Although districts may not have legal access to student records kept by other agencies, they will of course need to seek and receive documentation from the other agencies to establish that a given child needs a surrogate parent and that the surrogate appointment meets stated criteria. This would include, for instance, formal establishment of the fact that a certain child is a ward of the State.

Each handicapped student's school records should be systematically reviewed to determine whether or not he or she may meet the surrogate-eligibility criteria:

1. Is the child a ward of the State?
2. Are his or her parents unknown or unavailable?
3. Have the student's parents requested in writing that a surrogate be named?
4. Have the student's parents' rights been terminated?

Following the initial survey effort, there should be an ongoing procedure - at the time of their referral into the special education system - for identification of students who need surrogate parents. This can take place by monitoring parent/guardian participation when permission for evaluation is requested by the district. A method to indicate the child's need for a surrogate parent could be part of the basic information gathered at the time of referral. Contact with the care facility or agency responsible for the child could then confirm the child's status. The identification of children in need of surrogate parents can also be part of the district's "child find" activities.

# *STEP TWO: PROCEDURES FOR RECRUITING, ASSIGNING, AND TERMINATING SURROGATE PARENTS*

## RECRUITMENT

Each local school district has the responsibility for recruiting, training and assigning surrogate parents. Although federal regulations allow local educational agencies to select surrogate parents by methods of their own choosing, it's suggested that persons responsible for recruiting volunteers use the following guidelines:

1. The volunteer should be an adult.
2. He/she should be willing to become thoroughly acquainted with the child's educational needs and with the special education system of Minnesota and of the local school in which the child is served.
3. The volunteer should have a background similar enough to that of the child to understand the child's special needs.
4. The surrogate parent should reside close enough to the school attended by the child to facilitate attendance at IEP meetings and conferences with teachers.

Persons selected as surrogate parents cannot have any interests that conflict with the interests of the child(ren) they represent. It is suggested that a surrogate parent should be free from the possibility of negative consequences from administrators for the execution of his/her rights and duties as a surrogate parent.

Surrogate parents *may not be employees* of agencies involved in the education or *care* of the child. This includes employees of the State Department of Education, the local school district, a state operated school, an institution, a private school, a nursing or group home, a county department of public welfare, or any other agency in which the individual would be exercising the rights of a surrogate as part of his/her job. Therefore, teachers, social workers, probation officers, and hospital superintendents, among other similar categories, are not eligible to be surrogate parents since they could be subject to an institutional bias.

Foster parents may be appointed, trained, and serve as surrogate parents for children in their care so long as no conflict of interest exists. It should be noted, however, that a child receiving foster care is *not* automatically a ward of the State. Therefore, districts would need to check the child's legal status before proceeding with a surrogate appointment. If the child is a ward of the State or needs a surrogate parent due to any other regulations or rules, his/her foster parent may be a good candidate for recruitment as a surrogate. However, if the foster parents do not qualify to serve or are not interested, another individual will need to be recruited from the community.

Many handicapped students in need of surrogate parents may live in a residential setting where the adults are not eligible to serve as surrogate parents. These would include children and young people living in nursing homes, group homes, state hospitals, and correctional facilities. For these students, volunteers should be recruited from the community and trained to serve as surrogate parents.

Methods used to recruit a corps of surrogate parents will also differ from one school district or special education cooperative to another. However, when practical, it is suggested that the local providing district or cooperative utilize an outside group to assist in recruiting in order to:

1. maintain the necessary distance between the local provider and the recruited volunteers and
2. aid in the compilation of a registry of volunteers who are willing to serve as surrogate parents.

Under the direction of the providing district, the recruiting group would be available for both the initial recruitment of volunteers and the provision of ongoing recruitment assistance.

<u>The local providing district carries full responsibility for recruiting and assigning surrogates.</u> It is suggested that the director of special education for a cooperative serve as a coordinator for all member districts. The director could serve to expedite, and avoid duplication of, the efforts of individual school districts.

The following list of community resources is offered as a source both for a recruiting group and of volunteers who may be willing to serve as surrogate parents:

1. a local Parent Teacher Student Association or the Parent Teacher Organizations,
2. parent advisory boards at local schools,
3. parents of handicapped children,
4. faculty groups at local colleges and universities,
5. United Way volunteer recruitment programs,
6. Department of Welfare foster parent groups,
7. organizations for retired clergy and teachers,
8. American Association of University Women chapters,
9. League of Women Voters chapters,
10. local chapters of various disability organizations:

    the Association for Retarded Citizens,

    the Association for Children and Adults with Learning Disabilities,

    the Comprehensive Epilepsy Program,

    Courage Center,

    Friends of Hearing Handicapped Children,

    mental health associations and advocacy groups,

    Minneapolis Association for the Hearing Impaired,

    Minnesota Association for the Severely Handicapped,

    Minnesota Committee for the Handicapped,

    Minnesota Epilepsy League,

    Minnesota Foundation for Better Hearing and Speech,

    Minnesota Speech, Language and Hearing Association,

    Minnesota, West-Metro Chapter of the National Society for Autistic Children,

    Muscular Dystrophy Association of Minnesota,

    National Federation of the Blind of Minnesota,

    PACER Center, Inc.

Spina Bifida Association of Minnesota,

Twin Cities Society for Autistic Children,

United Cerebral Palsy of Minnesota,

11. Kiwanians, Jaycees, Lions, and
12. local advocacy groups.

In conjunction with the providing district, the recruiting team may wish to conduct an active media campaign to solicit volunteers for the surrogate program. Television and radio time could be used as well as newspaper articles. (See a sample newspaper article in the Appendix.) Samples of a brochure that can be utilized to publicize the program are available from the State Department of Education. The brochures may also be ordered in large quantities by districts by contacting the education department.

Once volunteers have been recruited, a registry of names could be maintained by the providing district, or the director of a special education cooperative might keep a centralized registry of volunteers willing to serve children within the cooperative. Each local district - perhaps, again, with the assistance of a cooperative's special education director - would then need to see that surrogates are trained and assigned to those handicapped children deemed eligible.

Recruited volunteers could be asked to complete registration forms indicating their willingness to serve as surrogate parents and to provide the district with references attesting to their qualifications. (See sample volunteer registration form in the Appendix.)

An effective surrogate parent should be able to communicate openly with agency personnel and to express clearly and constructively the concerns h/she may have about the child's educational needs and program. The surrogate parent need not be highly educated in a specific professional field in order to be effective. However, s/he should be a caring person who is willing to learn about the child and the special education system.

## ASSIGNMENT AND TERMINATION OF SURROGATE PARENTS

The providing district is responsible for assigning a surrogate parent to a handicapped student.

At this time, it is suggested that the person responsible for assignment talk with the potential surrogate parent about the kinds of children in the district's or cooperative's programs who are eligible for surrogate parents. A volunteer may wish to be assigned to a child with a particular handicapping condition if, for instance, he/she has a child with the same disability.

When possible, the district may also wish to consider whether the surrogate's cultural background will provide the kind of understanding of the child needed to advocate for his/her individual needs.

A notice of assignment might be forwarded to the surrogate parent that includes the name of the student, his/her current education program, and the school district responsible for the child. (See a sample letter of assignment in the Appendix.)

A copy of the notice of assignment could be kept in the student's educational records for purposes of determining who has access to the records. When appropriate, the child could also be notified of the surrogate parent's appointment and the role that the surrogate will play in his/her educational program.

It is suggested that surrogate parents be appointed on an "open-ended" basis but that annual reviews be scheduled. Should the surrogate be found to be negligent in his/her representation of the child or should other factors have entered the picture (such as the child's eligibility for special education services ending), termination of the appointment could be considered at that time. Further, if the child's own parents reappear or when s/he reaches the age of majority, the surrogate assignment may no longer be necessary.

After a district's surrogate parent program is in place, a surrogate parent would be assigned to an eligible handicapped student at the time of his/her referral into the special education system. A chart included in the Appendix details the sequence of events in

assigning surrogate parents. It should be noted that if foster parents are to be named as surrogates, they must be formally appointed; they do not have the rights and responsibilities of a surrogate parent by virtue of their foster parent status alone.

The providing district could establish an ongoing monitoring system to ensure that persons appointed as surrogates are representing handicapped students to whom they've been assigned in accordance with regulations. The district will be able to determine the surrogates' need for additional training and assistance by regularly communicating with surrogate parents and with the staff who work with the surrogates.

When naming a surrogate parent, the district should work closely with the care facility or agency responsible for the care of the child. Also, the surrogate parent will need to communicate with the care facility to keep that staff informed about the child's education program.

# *STEP THREE: PROCEDURES FOR THE TRAINING OF A SURROGATE PARENT*

## THE ROLE OF A SURROGATE PARENT

Surrogate parents must represent the child in all matters relating to his or her special education, including identification, assessment, and placement.

Specifically, these surrogate duties include:

1. responding with approval or disapproval to requests from the school district for an educational assessment;
2. initiating requests for assessments and re-assessments;
3. reviewing and receiving a copy of the student's educational records and protecting the confidentiality of such records;
4. participating in case conferences, IEP meetings, and other parent/school conferences;
5. approving or disapproving educational placement;
6. initiating complaint or due process procedures;
7. representing the child in any due process or complaint procedures initiated by the education provider;
8. monitoring the child's educational development; and
9. acting as the child's parent/advocate by requesting services or making complaints about services or the lack of services if necessary.

Surrogate parents must learn as much as possible about the handicapped child and his/her educational history and needs in order to be able to fully participate on the education planning team.

## TRAINING FOR SURROGATE PARENTS

It is the responsibility of the providing district to insure that surrogate parents have the "knowledge and skills" necessary to adequately represent the educational interests of the children to whom they are assigned.

State Board of Education rules require the surrogates to have knowledge of state and federal statutory and regulatory requirements, of the school district's structure and procedures, and of the nature of the pupil's disability and his or her needs. They must also possess the ability to advocate effectively for the child.

It is suggested that surrogate parents have specific knowledge of:

1. the role and responsibilities of surrogate parents,
2. the procedures for IEP development, assessment, case conference, access to records, and confidentiality,
3. terminology used during the special education process,
4. protections and procedural safeguards available to handicapped students and surrogate parents to insure that the needs of each student are met, and
5. the range of special education programs and services available within the district and the identification of administrative and instructional staff assigned to provide those programs.

Information could be given to surrogate parents as part of a group training workshop as well as on a one-to-one basis. Training packets for surrogate parents are available by contacting the state Department of Education. Also, opportunities for the surrogate to observe the child in his/her classroom should be provided.

Because much of the information offered to surrogate parents during a training workshop is applicable to other parents of handicapped children, the latter group might also be included in the trainings. Social workers and other personnel from related community agencies such as county departments of public welfare, nursing homes, group homes, state hospitals, and correctional facilities as well as local teachers and administrators may also find the workshops valuable and could be invited to attend.

Training and consultation should be an ongoing effort as the needs of individual surrogate parents dictate. Surrogate parents should also be included in any inservice training offered to other parents of handicapped children within the school district or cooperative.

# APPENDIX

# FEDERAL REGULATIONS CONCERNING SURROGATE PARENTS

300.514 Surrogate parents

(a) General. Each public agency shall insure that the rights of a child are protected when:

(1) No parent (as defined in 300a.10) can be identified;

(2) The public agency, after reasonable efforts, cannot discover the whereabouts of a parent; or

(3) The child is a ward of the State under the laws of that State.

(b) Duty of public agency. The duty of a public agency under paragraph (a) of this section includes the assignment of an individual to act as a surrogate for the parents. This must include a method (1) for determining whether a child needs a surrogate parent and (2) for assigning a surrogate parent to the child.

(c) Criteria for selection of surrogates.

(1) The public agency may select a surrogate parent in any way permitted under State law.

(2) Public agencies shall insure that a person selected as a surrogate:

(i) Has no interest that conflicts with the interests of the child he or she represents; and

(ii) Has knowledge and skills that insure adequate representation of the child.

(d) Non-employee requirement; compensation.

(1) A person assigned as a surrogate may not be an employee of a public agency which is involved in the education or care of the child.

(2) A person who otherwise qualifies to be a surrogate parent under paragraph (c) and (d) (1) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

(e) Responsibilities. The surrogate parent may represent the child in all matters relating to:

(1) The identification, evaluation, and educational placement of the child, and

(2) The provision of a free appropriate public education to the child.

300a.10 Parent

As used in this part, the term "parent" means a parent, a guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance with 300.514. The term does not include the State if the child is a ward of the State.

300a.11 Public agency

As used in this part, the term "public agency" includes the State educational agency, local educational agencies, intermediate educational units, and any other political subdivisions of the State which are responsible for providing education to handicapped children.

*Code of Federal Regulations*, title 34, section 300

# STATE BOARD OF EDUCATION RULES CONCERNING SURROGATE PARENTS

5 MCAR S 1.01233 Surrogate parent.

A. A surrogate parent is a person appointed by the providing district to ensure, by intervening on behalf of a pupil, that the rights of the pupil to a free and appropriate education are protected. The surrogate parent shall not be a person who receives public funds to care for the child. However, a foster parent may serve as a surrogate parent if appointed and if no conflict of interest exists.

B. Reasonable efforts shall be made to locate the parent. These may be made through documented phone calls, letters, certified letters with return receipts, and visits to the parent's last known address.

C. The district shall appoint the surrogate parent when:

1. the parent, guardian, or conservator is unknown or unavailable; or

2. parental rights have been terminated; or

3. the pupil is a ward of the State; or

4. the parent requests in writing the appointment of a surrogate parent; the request may be revoked in writing at any time.

D. The district shall consult the county welfare office before appointing the surrogate parent when a pupil is the ward of the commissioner of public welfare.

E. A surrogate parent may be removed by majority vote of the school board. The surrogate parent must be notified of the time and place of the meeting at which a vote is to be taken and of the reasons for the proposed removal. The surrogate parent shall be given the opportunity to be heard. Removal may be for any of the following reasons:

1. failure to perform the duties required in the team meeting, the IEP process, and those cited in Code of Federal Regulations, title 34, section 300, a federal regulation to implement Part B of the Education of the Handicapped Act;

2. conflict of interest as referenced in Code of Federal Regulations, title 34, section 300.514 (c)(2);

3. actions that threaten the well-being of the assigned pupil;

4. failure to appear to represent the pupil; or

5. change in eligibility for special education.

F. The district shall either make the information and training available to the surrogate parent or appoint a surrogate parent who has all of the following knowledge and skills:

1. state and federal requirements;

2. district structure and procedures;

3. nature of the pupil's disability and needs; and

4. an ability to effectively advocate an appropriate educational program for the pupil.

## A SAMPLE NEWSPAPER ARTICLE THAT MIGHT BE USED TO RECRUIT SURROGATE PARENTS:

A new program has come to Manitoba County looking for special people who are willing to help some special children.

Called the Surrogate Parent Program, it is seeking individuals, or couples, who would be willing to serve as educational advocates for handicapped children without parents to represent them.

No responsibility for the care or support of the assigned child is entailed. Only a little time, connected with training and educational planning, will be needed.

In essence, what a surrogate parent would have to do would be much the same as a regular parent does in setting up a child's school program. After proper training, the surrogate would meet with persons like the child's case worker, school principal, teacher, and other school personnel who've been involved in testing and planning for the child.

The surrogate parent program is a response to new Minnesota regulations that require the appointment of a surrogate parent for handicapped children without parents of their own to represent them.

Persons interested in the possibilities of becoming a surrogate parent should contact _____ for more information on the new program.

## A SAMPLE LETTER THAT COULD BE USED TO NOTIFY SURROGATE PARENTS OF THEIR APPOINTMENT TO REPRESENT A SPECIFIC CHILD:

Amarillo School District
123 School Avenue
Amarillo, Minnesota

October 27, 1984

Esther Cannon
321 Anderson St.
Amarillo, Minnesota

Dear Mrs. Cannon,

The Amarillo School District would like to appoint you as a surrogate parent in accordance with both federal and state law and regulations. Accordingly, as a surrogate parent, you will have all the rights and responsibilities of parents in matters relating to the special education process.

The child with whom we have matched you is Sally Smith, age 10. Sally is currently a ward of the State and a resident at the Goldman House in Wineota. She attends fifth grade at the elementary school in Amarillo. The principal there is Ms. Leota Lyon, and Sally's teacher is Mr. Jon Graham. Both may be reached by contacting the school at 345-6789.

If you have any questions about your appointment or your rights and responsibilities as a surrogate parent, please call me.

Sincerely,

Tom Browne
Special Education Director

## VOLUNTEER REGISTRATION FORM:

NAME _____

HOME ADDRESS _____

PHONE (home) _____ (work) _____

DATE OF BIRTH _____

MARITAL STATUS _____ # OF CHILDREN _____

ARE ANY OF THE CHILDREN IN YOUR CARE FOSTER CHILDREN OR HANDICAPPED CHILDREN? DESCRIBE

_____

_____

_____

_____

EDUCATION (circle last year completed)

grade 5 6 7 8 high school 1 2 3 4
college 1 2 3 4 graduate school 1 2 3 4

PREVIOUS WORK EXPERIENCE _____

_____

ARE YOU PRESENTLY EMPLOYED? _____

IF YES, WHAT ARE YOUR DUTIES? _____

_____

EMPLOYER'S NAME AND ADDRESS _____

_____



_____
(date)

EXPERIENCES WITH CHILDREN OR YOUTH; SPECIAL INTERESTS, ORGANIZATIONS, AFFILIATIONS:

_____

_____

_____

_____

_____

HOW DID YOU HEAR ABOUT THE SURROGATE PARENT PROGRAM?

_____

CAN YOU SUGGEST OTHERS WHO MAY BE INTERESTED IN VOLUNTEERING TO SERVE AS SURROGATE PARENTS?

_____
(name) (phone)

_____
(name) (phone)

PLEASE GIVE THE NAMES, ADDRESSES, AND PHONE NUMBERS OF THREE REFERENCES WE COULD CONTACT:

1. _____

_____

2. _____

_____

3. _____

_____

## PROCEDURAL CONSIDERATIONS IN ASSIGNING SURROGATE PARENTS:

| | Community Volunteer as Surrogate Parent | Foster Parent as Surrogate Parent |
|---|---|---|
| When the student is currently receiving special education services | 1. Public awareness campaign and volunteer recruitment<br>2. Screening of volunteer to determine eligibility<br>3. Training of volunteer<br>4. Assignment to student<br>5. Volunteer meets student and assumes surrogate parent duties | 1. Communication (letter), phone call, or meeting) with foster parent to determine interest in serving as surrogate parent<br>2. Screening of foster parent to determine eligibility<br>3. Training of foster parent<br>4. Extension of invitation to serve as surrogate parent<br>a. Agreement: Foster parent is assigned to student<br>b. Refusal: Student is eligible for assignment to a community volunteer<br>5. Foster parent assumes duties of surrogate parent |
| When the student is being referred for special education services | 1. Volunteer recruitment<br>2. Screening of volunteer to determine eligibility<br>3. Training of volunteer<br>4. Assignment to student<br>5. Assessment/possible identification of student as handicapped<br>a. if handicapped, volunteer continues surrogate duties<br>b. if not handicapped, surrogate appointment ceases<br>c. if hearing requested on identification, assignment is continued | 1. Communication with foster parent to determine interest in service as surrogate<br>2. Screening of foster parent to determine eligibility<br>3. Training of foster parent<br>4. Extension of invitation to serve as surrogate parent<br>a. Agreement: Foster parent is assigned to student<br>b. Refusal: Student is eligible for assignment to community volunteer<br>5. Assessment/possible identification of student as handicapped<br>a. if handicapped, foster parent continues duties of surrogate parent<br>b. if not handicapped, surrogate assignment discontinued<br>c. if hearing requested re: identification, surrogate assignment continued |

## INTERACTION BETWEEN PROVIDING DISTRICTS AND OTHER AGENCIES:

Cooperation among a variety of agencies will help to insure the smooth implementation of a locally-based surrogate parent program. The following chart outlines the responsibilities of each agency. (Those which represent actual federal or state regulation requirements are starred.)

THE PROVIDING DISTRICT —

* 1. determines which children need surrogate parents;

2. in identifying children in need, works in conjunction with county departments of public welfare, hospitals, nursing homes, or group homes;

3. plans and conducts an orientation meeting with cooperating agencies in order to inform them of the surrogate parent provision of the regulations, answers questions, and discusses mutual responsibilities;

4. notifies foster parents of their option of serving as surrogate parents;

5. enlists the assistance of a local community group to recruit volunteers willing to serve as surrogates;

* 6. screens volunteers and foster parents to determine eligibility;

* 7. assures that training is provided for volunteers and foster parents;

* 8. assigns surrogate parents to eligible children;

* 9. evaluates program implementation and the participation of surrogate parents in the education process;

*10. sees that surrogate parents are afforded the rights of all parents with regard to the child's education; and

*11. supervises all aspects of local program implementation.



THE STATE BOARD OF EDUCATION AND THE MINNESOTA DEPARTMENT OF EDUCATION —

*1. establish rules to direct the form of surrogate parent programs;

*2. provide ongoing guidance to districts in the implementation of the rules; and

*3. monitor local compliance with the surrogate parent provisions of Public Law 94-142 and State Board of Education rules.

THE CARE FACILITY OR AGENCY RESPONSIBLE FOR THE CHILD —

1. works closely with the local providing district to determine which children are eligible for the assignment of a surrogate parent;

2. attends local orientation meetings;

3. retains responsibility for the child outside of the educational realm; and

4. through the surrogate parent, remains involved with and informed about the child's educational program.

THE RECRUITING GROUP —

1. with the assistance of the providing district, develops and conducts a public awareness campaign and

2. recruits potential surrogate parents.

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